

get unemployment benefits since he had not been discharged but merely "indefinitely suspended" subject to recall at the decision of the Public Works officials.

This Board is not in the business of second-guessing grievance procedures or decisions clearly made on the basis of evidence under those procedures. However, in this case, the Board cannot sit by and countenance a clear example of unfair treatment of an employee by a public employer. In this case the employee was never allowed to confront his accuser before the Public Works committee. There was evidence to show that the credibility of the accuser was at least subject to question and all evidence on the record before the Board and the Public Works officials, with the exception on hearsay in written or oral form which was contradicted on the record and subject to cross-examination, was that the employee had not engaged in the actions complained of. Evidence of the hearing conducted in Rochester was conclusive that Bouchard did not get a complete hearing. Finally, his "indefinite suspension" was not a firing, was not a clear decision of termination, and put him in limbo which was certainly an unfair position, not allowing him to know whether to seek additional employment, when he would return to work, if at all, and not allowing him to apply for unemployment compensation successfully. This unfair treatment and result could not have been contemplated by those designing and attempting to put into practice the grievance review system. It was and continues to be an unfair situation constituting an unfair labor practice.

The original order of this Board called for back pay and reinstatement of the employee, Roger Bouchard. The Board affirms that order with the understanding that any pay which Bouchard has gotten in the interim period will be off-set against any amounts of back pay due and he will be credited with any automatic pay increases which may have been granted to his position during the period in calculating back pay.

ORDER

The Board issues the following order:

1. The order of March 28, 1978 is affirmed and shall be read consistently with the findings in this decision as to back pay.
2. Roger Bouchard shall be reinstated at once.
3. The parties shall report compliance with this order to the Board within ten (10) days of this order.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 29th day of November, 1978

Unanimous vote. Edward J. Haseltine, Chairman and Board members Richard H. Cummings, Edward L. Allman, Joseph B. Moriarty and James C. Anderson present and voting. Also present Board Clerk Evelyn C. LePrun